

File No. 25587

Baltimore, October 25, 1919.

Messrs. Bernard Carter & Sons,  
Counsel, The Pennsylvania Railroad Company.

Gentlemen:

13449 Mr. Marchant has referred to me your letter of October 24th, in relation to the application of the Pennsylvania Railroad Company for permit to take down certain houses on Davis and Bath streets.

The City is anxious to co-operate with the Company in this respect, but it finds it impossible to direct the Building Inspector to issue this permit until the Fallsway assessments on these properties be paid.

Paragraph 5, Section 6 of the Building Code, which is an Ordinance of the Mayor and City Council of Baltimore, expressly forbids any such issue. The City is perfectly willing that you should pay the amount of this assessment to the City Collector under specific agreement, that if the assessments be subsequently reduced, a proportionate amount of the money may be returned to the Railroad Company.

Section 180 of the Charter provides for the repayment of assessments paid under an ordinance that is subsequently declared void or repelled. In my mind, there is some doubt as to whether this would cover your case or not, but it is clear that a specific agreement would do so.

We cannot accept the view that these assessments are not a lien. We think they have been a lien from the time the assessments were originally made by the Commissioners for Opening Streets, although the amount of this lien has been reduced, and possibly may subsequently be reduced again.

I have advised the City Solicitor, that all the facts stated in your letter are true, although I cannot accept your legal conclusion on this particular point.

The City Solicitor regrets that he is unable to advise the